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LABOUR AND MUNICIPAL ADMINISTRATION SECRETARIAT

ORDER

Bangalore, dated 20th May 1967.

S. O. 889.—WHEREAS, by a notice No. LMA 215 MNY 66 (I) dated the 8th November 1966 issued to the Corporation of the City of Bangalore under Section 47A of the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act 69 of 1949), the said Corporation was asked to show cause why it should not be superseded ;

WHEREAS, in reply to the notice, the said Corporation has by its resolution dated the 5th December 1966, stated that the charges were vague and that no grave failure of any statutory function was made out ;

WHEREAS, in the light of the decision of the High Court of Mysore in Writ Petition No. 2725 of 1966, the State Government has considered the matter ;

WHEREAS, in the opinion of the State Government, each one of the three charges (6), (11) and (14) is by itself serious to justify supersession of the Corporation ;

AND, WHEREAS, the State Government is of the opinion that the Corporation of the City of Bangalore is not competent to perform the duties imposed on it by or under the City of Bangalore Municipal Corporation Act, 1949, and has abused its powers ;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 47A of the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act 69 of 1949), the Government of Mysore hereby declares for the reasons specified in the Statement of Reasons annexed hereto that the Corporation of the City of Bangalore is incompetent and has abused its powers and hereby orders that the said Corporation be and is hereby superseded for a period of three years commencing on the 22nd (Twenty second) day of May, 1967, and all the Councillors of the Corporation shall cease to hold office as such Councillors on the said date.

[No. LMA 215 MNY 66 (I)]

By Order and in the name of the Governor of Mysore,

N. S. RAMACHANDRA,

Secretary to Government,

Labour and Municipal Administration Department.

ANNEXURE

Statement of Reasons

Item (6) of the notice relates to the failure of the Corporation to deal with nearly 400 subjects many of which are pending since October 1962. In the reply it is stated that most of the subjects relate to the grant of sites, margin lands, giving of grants to public institutions, etc., that the Corporation did not like to dispose of the lands without a definite policy and further, by Government Order and by the amendment to the Corporation Act, the ultimate authority to dispose of the lands is vested with the Government, and that the subjects relating to the works, maintenance of health and other subjects of public interest had been disposed of without any loss of time taking them as urgent subjects.

In the note by the Commissioner received along with the resolution of the Corporation, it is stated that on 23rd November 1966, 514 subjects were pending, and of these 235 relate to grant of sites, grant of margin lands, lease of lands, grant of licences and other grants and the remaining 279 subjects relate to acquisition of lands, sanction of estimates and other subjects. The explanation that most of the subjects relate to grant of sites, margin lands, etc., is clearly incorrect. The other explanation offered by the Corporation that the Corporation did not like to dispose of the lands without a definite policy and also in view of the amendment of the Corporation Act vesting the ultimate authority to the State Government cannot be accepted. The Corporation does not refer to any resolution in which any decision was taken for deferring consideration of the subjects relating to disposal of lands until the Corporation evolved a definite policy, as regards their disposal. The amendment to the Corporation Act made in March 1966, regulating the exercise of powers by the Corporation in respect of disposal of lands, did not take away the power vested in the Corporation but merely required that such disposal should be with the previous

sanction of the Government. The Government itself was not vested with the power of disposal. Consequently, unless the Corporation took a decision as regards the disposal of the lands, there could be no question of obtaining the sanction of the Government. There was therefore no reasonable ground for keeping such a large number of subjects on various matters pending for years. This failure to discharge the duty vested in the Corporation without any reasonable ground clearly establishes the incompetency of the Corporation to perform its duties under the Corporation Act.

Item (11) of the notice relates to the failure of the Corporation to frame recruitment rules relating to its staff even though draft rules were placed before the Corporation four years ago, thereby hindering the proper recruitment of the staff. In the reply of the Corporation it is stated that there was some difficulty to fix up parity regarding the claims of those employees who have joined the Corporation after integration of the Civil Station Municipality, that there were conflicting views regarding passing of tests through Government orders and Court orders, that there were a number of writ petitions pending before the High Court in respect of appointments, promotions, increments, etc:, that there was some delay due to consultation with the Public Service Commission in regard to controversial cases and that another important reason for the delay was that for the last two years and more there was a proposal to prepare a common cadre for all the employees of the local bodies in the State and that the same was not finalised by the Government, and that despite all those handicaps, the Standing Committee had met several times and the subject had been brought to a final shape and that the rules would be ready to be placed before the Corporation within a few days.

Section 94 of the Corporation Act empowers the Standing Committee to frame regulations governing the recruitment in respect of the Corporation establishment. The Corporation was formed under section 438 of the Corporation Act, initially with the Councillors of the

Bangalore City Municipality and the Commissioners of the Municipal Commission of the Civil Station, Bangalore, and the employees of the Bangalore City Municipality and of the Civil Station Municipal Commission became employees of the new Corporation. Whatever claims the staff formerly employed under the Bangalore City Municipality or the Civil Station Municipal Commission may have, it is not clear how those claims could preclude the Corporation from making appropriate recruitment rules. Nor is it clear how the question of passing of tests would affect the making of recruitment rules. It is not stated how a writ petition filed in Court by an employee of the Corporation has affected the making of the recruitment rules. The explanation that another important reason for the delay was the proposal of the Government to prepare a common cadre of all the employees of local bodies in the State is also untenable. The failure to make appropriate recruitment rules although the Corporation was established in 1949, clearly establishes the incompetency of the Corporation to discharge its functions.

Item (14) of the notice relates to causing of public inconvenience in deciding to terminate the agreement entered into for the supply of water with the Bangalore Water Supply and Sewerage Board. In its reply, the Corporation has stated that it had requested the Government to use its good offices to give free allowance of water and that the Corporation wanted to give better relief to its citizens by giving concessions to the over-burdened tax-payers and the decision was an attempt made to give better facilities to the public. It is not clear how the cancellation of the agreement by the Corporation would give any better relief to the citizens of Bangalore. The agreement entered into by the Corporation with the Bangalore Water Supply and Sewerage Board was in accordance with the resolution of the Corporation, and under the agreement, the inhabitants of Bangalore had benefits to which the Board had agreed. The cancellation of the agreement by the Corporation without settlement of terms relating to another agreement to be entered into between

the Corporation and the Board would impose very heavy burden on a large number of inhabitants of Bangalore who are benefited by getting water to some extent without separate payment to the Board. The tenants would have to pay the full charges for the water supplied by the Board in addition to the enhanced rent due to the increase in the rate of property tax and the owners residing in their own houses would have to pay the full charges in addition to the enhanced property tax. The poorer sections of the inhabitants who do not have their own domestic connections but have to draw water from public fountains would not have been able to get any water, if the Corporation had withheld payment of charges, due to the cancellation of the agreement. The decision of the Corporation to cancel the agreement is highly detrimental to the interests of the inhabitants of the City of Bangalore and is clearly an abuse of its powers.

N. S. RAMACHANDRA,

Secretary to Government,

Labour and Municipal Administration Department.

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